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CLERK US DISTRICT COURT
DISTRICT OF NEVADA

BY______ DEPUTY

Kevin Kelleher
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Apex, NC 27502
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filing pro se

United States District Court

District of Nevada

Righthaven LLC, a Nevada limited-liability company,

Plaintiff,

vs.

Kevin Kelleher, an individual,

Defendant

Case No.: 2:10-cv-01184

Defendant's Answer

Defendant Kevin Kelleher answers on information and belief, the allegations in the like numbered paragraphs of Plaintiff, Righthaven LLC. Complaint, and pursuant to Fed. R. Civ. P.8 (b)(3) hereby denies all allegations except as specifically admitted below:

Nature of Action

1. Admitted that Plaintiff's Complaint purports to allege copyright infringement pursuant to 17 U.S.C. § 501.

Parties

2. Admitted.

3. Admitted.

4. Denied, the Defendant is the registered blogger, not the **owner** of the domain in question found at pa-announcer.blogspot.com. Defendant does not pay web hosting fees or have any administrative capabilities other than posting information to the blog. The domain in question is 'owned' by Blogger, Blogspot and Google Inc., et al.

5. Admitted.

Jurisdiction

6. Denied. Further, Defendant asserts that there is a lack of jurisdiction and, improper venue.

7. Denied. Plaintiff was not the owner of the copyrighted work in question "Calvert, longtime voice of UNLV, among six-member class" at the time of the alleged infringement.

8. Admitted

9. Denied. Defendant's posting of the Work,"Calvert, longtime voice of UNLV, among six-member class", does not create competition or confuse authorship and was done with the belief that such display was protected under Fair use of the Copyright law (section 107), at no time did Defendant believe his alleged act constituted an infringement of copyright. Defendant was not aware that his Blog, a passive, non-commercial information/news portal, would be subject to a lawsuit given the fact that origin and writer credit were displayed.

10. Denied. On July 17, 2010 Defendant received an e-mail sent by Steve Green, a reporter for the Las Vegas Sun, asking for a comment regarding a lawsuit filed against Defendant. The article in question, "Calvert, longtime voice of UNLV, among six-member class" was immediately removed from Defendant's Blog.

11. Admitted.

12. Admitted.

13. Denied. Defendant asserts that the Work and alleged Infringement "Calvert, longtime voice of UNLV, among six-member class" was directed at other public address announcers, and not necessarily at Nevada residents.

14. Denied. Defendant did not purposefully direct his conduct toward Nevada. Defendant's Blog " pa-announcer.blogspot.com" is a passive, non-commercial online destination for current, and former public address announcers. It does not generate any revenue and contains no advertising. It has no 'followers' and would typically average less than 10 visits per day.

Venue

15. Denied for lack of knowledge and/or time necessary to provide answer. However, Defendant maintains that he has no ties to Nevada, never had employment or residence in Nevada and has never lived in or owned property in Nevada.

Facts

16 Admitted
17 Admitted
18 Admitted
19 Admitted

20 Denied. On July 17, 2010 Defendant received an e-mail sent by Steve Green, a reporter for the Las Vegas Sun, asking for a comment regarding a lawsuit filed against Defendant. The article in question, the alleged Infringement, "Calvert, longtime voice of UNLV, among six-member class" was immediately removed from Defendant's Blog.

21 Denied. Defendant's alleged posting of the Work,"Calvert, longtime voice of UNLV, among six-member class", does not create competition or confuse authorship and was done with the belief that such display was protected under Fair use of the Copyright law (section 107), at no time did Defendant believe his alleged act constituted an infringement of copyright. Defendant was not aware that his Blog, a passive, non-commercial information/ news portal, would be subject to a lawsuit given the fact that origin and writer credit were displayed.

22 Denied. Defendant's alleged posting of the Work,"Calvert, longtime voice of UNLV, among six-member class", does not create competition or confuse authorship and was done with the belief that such display was protected under Fair use of the Copyright law (section 107), at no time did Defendant believe his alleged act constituted an infringement of copyright. Defendant was not aware that his Blog, a passive, non-commercial information/ news portal, would be subject to a lawsuit given the fact that origin and writer credit were displayed.

Claim For Relief: Copyright Infringement

23 Defendant repeats and re-alleges his Answers set forth in Paragraphs 1 through 22 above.

24 Admitted

25 Admitted

26 Admitted

27 Admitted

28 Denied. Defendant in no way attempted to detract or take away Plaintiff's rights.

29 Denied. Defendant in no way attempted to detract or take away Plaintiff's rights.

30 Denied. Alleged Infringement, "Calvert, longtime voice of UNLV, among six-member class", was removed from Defendant's Blog immediately after notification from a 3rd party.

31 Denied. Alleged Infringement, "Calvert, longtime voice of UNLV, among six-member class", was removed from Defendant's Blog immediately after notification from a 3rd party.

32 Denied. Defendant's alleged posting of the Work,"Calvert, longtime voice of UNLV, among six-member class", does not create competition or confuse authorship and was done with the belief that such display was protected under Fair use of the Copyright law (section 107), at no time did Defendant believe his alleged act constituted an infringement of copyright. Defendant was not aware that his Blog, a passive, non-commercial information/ news portal, would be subject to a lawsuit given the fact that story origin and writer credit were displayed.

33 Denied. Defendant's assertion is that the Plaintiff's claim of "irreparable harm" is specious in nature and not worthy of the Court's time and trouble. Defendant asserts that Plaintiff's inability to ascertain what exactly "irreparable harm" is, and what it constitutes, is merely a 'fishing expedition' with a protracted "what if" scenario.

34 Denied. The alleged infringement, the Work,"Calvert, longtime voice of UNLV, among six-member class" was removed July 17, 2010.

Prayer For Relief

Defendant respectfully requests that:

Plaintiff's Prayer For Relief be denied in it's entirety, except that Defendant hereby stipulates that Judgment be had in Plaintiff's favor against Defendant for non-willful copyright infringement of the single article at issue, "Calvert, longtime voice of UNLV, among six-member class", and Plaintiff be awarded $200.00 in statutory damages pursuant to 17 U.S.C. § 504(c)(2).*

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* "In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $200.

Respectfully submitted,

Dated August 4th, 2010

[signature]

Kevin Kelleher

821 Homestead Park Dr
Apex, NC 27502
Telephone 919-362-1710

Appearing *pro se* for Defendant
Kevin Kelleher

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that on this date, I served a true and correct copy of the foregoing document:

DEFENDANT'S ANSWER

upon Plaintiff's counsel by causing it to be placed in United States Mail, Express Mail overnight service postage prepaid, addressed to the following individuals:

STEVEN A. GIBSON, ESQ.
J. CHARLES COONS, ESQ.
Righthaven LLC
9960 West Cheyenne Avenue, Suite 210
Las Vegas, Nevada 89129

August 4th, 2010

Date

Kevin Kelleher
Defendant Pro Se